

# 2003 NMTC Allocation Application Q & A Document

## Community Development Financial Institutions Fund

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*If you are already familiar with the previous Allocation Application Q&A Document released in July of 2003, Questions #4, #7, #10, #28 and #29 have been substantively amended. Questions #31 - #36 are new questions.*

*NOTE: On September 5, 2003, the IRS released Notice 2003-64 announcing that it intends to amend the definition of Qualified Low-Income Community Investment in the Temporary and Proposed Income Tax Regulations to include investments through two additional CDEs. This Notice is available on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).*

### **(1) How does the New Markets Tax Credit (NMTC) Program work?**

The NMTC Program permits taxpayers to claim a credit against Federal income taxes for Qualified Equity Investments (QEIs) made to acquire stock or a capital interest in designated Community Development Entities (CDEs). Designated CDEs must use substantially all of the proceeds from the QEIs to make Qualified Low-Income Community Investments (QLICs). The tax credit provided to the investor (either the original holder or a subsequent purchaser) is claimed over a seven-year credit period. In each of the first three years, the investor receives a tax credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the next four years, the value of the tax credit is six percent annually. The Community Development Financial Institutions Fund (the Fund) certifies CDEs on an ongoing basis, and allocates NMTC Allocations annually to select CDEs through a competitive application process.

### **(2) What is a CDE?**

A CDE is any duly organized entity treated as a domestic corporation or partnership for federal tax purposes and that: (a) has a primary mission of serving, or providing investment capital for, low-income communities or low-income persons; (b) maintains accountability to residents of low-income communities through their representation on any governing board of the entity or any advisory board to the entity; and (c) has been certified as a CDE by the Fund.

The Fund is currently accepting applications from organizations seeking designation as CDEs. An organization seeking such a designation should review the Fund's CDE Certification Guidance and a document titled "CDE Certification Q&A" prior to submitting its CDE Certification Application to the Fund. These documents are available on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov). Community Development Financial Institutions (CDFIs) certified by the Fund and Specialized Small Business Investment Companies (SSBICs) licensed by the Small Business Administration (SBA) are deemed to automatically meet the requirements for certification as a CDE, and need only register on-line at the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).

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**(3) Who is eligible to apply for NMTC Allocations?**

In order to be eligible to apply for NMTC Allocations from the Fund in the 2003 allocation round, an Applicant must: (a) be legally incorporated or formed as a domestic corporation or partnership for Federal tax purposes; (b) have a valid Employer Identification Number (EIN) at the time of application submission; and (c) be certified as a CDE by the Fund or have a CDE Certification Application pending with the Fund. The deadline for receipt of CDE Certification Applications from entities seeking a 2003 NMTC Allocation is 5:00 pm Eastern Time, **August 29, 2003. Entities whose CDE Certification Applications are not received by the Bureau of Public Debt (BPD) by that date are not eligible to apply for a 2003 NMTC Allocation.**

**(4) What are the deadlines and dates that I need to know if my organization intends to apply for NMTC Allocations in 2003?**

*Please note that some of these dates are extensions of dates originally provided in the 2003 NOAA:*

<b>Deadline</b>	<b>Date</b>
If the Applicant has not yet been certified as a CDE (see Q&A #3), its CDE Certification Application must be received by...	5:00 pm Eastern Time on <b>August 29, 2003</b>
Notification of intent to submit a paper Allocation Application (see Q&A #8) must be received by...	5:00 pm Eastern Time on <b>September 19, 2003</b>
Last date to contact the Fund with any questions regarding completion or submission of the 2003 Allocation Application is...	5:00 pm Eastern Time on <b>September 29, 2003.</b>
Request to modify CDE Certification service area (see Q&A #24) must be received by...	5:00 pm Eastern Time on <b>September 30, 2003</b>
Allocation Application (online or paper version) must be received by...	5:00 pm Eastern Time on <b>September 30, 2003</b>
Signature page and attachments for the electronic application (see Q&A #9) must be received by...	5:00 pm Eastern Time on <b>October 7, 2003</b>
2002 allocatees must issue and receive cash for at least 50% of their QEIs (see Q&A #7) by...	<b>March 5, 2004</b>

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- (5) ***My organization submitted its CDE Certification Application prior to the August 29, 2003 deadline, and received a confirmation that it was in fact received. Will the Fund be able to make a determination regarding my certification status prior to September 30, 2003? If not, how will this affect my ability to submit an NMTC Allocation Application to the Fund?***

Due to the volume of CDE Certification Applications that are expected to be submitted before the applicable deadline (approximately 400 applications were received before the deadline for the 2002 allocation round), the Fund may not complete reviews on all CDE Certification Applications prior to the applicable Allocation Application due date. However, the Fund will review Allocation Applications from organizations that have not yet received a certification determination, provided their CDE Certification Applications were received by August 29, 2003. The Fund will not make allocation awards to organizations until such time as they have been certified as CDEs. Accordingly, organizations will likely know their certification status in advance of the award decisions.

- (6) ***Is an entity that has previously received a CDFI or BEA Program award (or an Affiliate of such an awardee) eligible to apply for NMTC Allocations?***

The Fund **will not consider** an application submitted by an Applicant that is a prior Fund awardee (or in the case where a prior Fund awardee Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, as determined by the Fund) under any Fund program, if such awardee:

- (a) Has a balance of undisbursed funds under such prior award(s), as of the NMTC Allocation Application deadline. Undisbursed funds are defined as: (i) in the case of prior BEA Program awards, any balance of award funds greater than \$5,000 that remains undisbursed more than three (3) years after the BEA Program awardee executes an award agreement with the Fund, and (ii) in the case of prior CDFI Program or other Fund program awards, any balance of award funds greater than \$5,000 that remains undisbursed more than one (1) year after the CDFI Program or other Fund program awardee executes an assistance agreement with the Fund;
- (b) Has been debarred from applying under any Fund program, as of the NMTC Allocation Application deadline; and
- (c) Has failed to meet its reporting requirements to the Fund, as set forth in a previously executed assistance or award agreement(s), as of the NMTC Allocation Application deadline.

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If an Applicant is a prior awardee or allocatee or if a prior Fund awardee or allocatee Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, as determined by the Fund, the Fund will also consider during the review process the extent to which the prior awardee or allocatee has failed to comply with the terms and conditions and other requirements of its previous or existing assistance, allocation or award agreements with the Fund.

Accordingly, Applicants that are prior awardees or allocatees under any other Fund program are advised to:

- (a) Submit all required reports by the deadlines specified in the assistance, allocation or award agreements governing said prior awards or allocations and to comply with all requirements found therein;
  - (b) Contact the appropriate program operations representative of the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of prior awards (non-NMTC Program); and
  - (c) Confirm that any entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, and is a prior Fund awardee or allocatee, has submitted all required reports to the Fund and is taking all necessary actions for the disbursement of any outstanding balances of any prior Fund awards (non-NMTC Program).
- (7) *Is an entity that has previously received an allocation (or an Affiliate of such entity) eligible to apply for NMTC Allocations and, if so, does it have any advantage or disadvantage?***

Success in a prior round of the NMTC Program or any of the Fund's other programs is not a predictor of success in this round of the NMTC Program. A prior allocatee of the NMTC Program is not eligible to apply for a NMTC Allocation unless the allocatee can demonstrate via the Fund's allocation tracking system that, as of **March 5, 2004**, it has issued and the allocatee has received cash from its investors for 50 percent of its QEIs relating to its prior NMTC Allocation. Further, an entity is not eligible to receive a NMTC Allocation if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), has not, as of **March 5, 2004**, issued and received cash from its investors for 50 percent of its QEIs relating to a prior NMTC Allocation. The Fund will only count as "issued" those QEIs that have been recorded and finalized in the Fund's allocation tracking system by **March 5, 2004**. Allocatees and their Subsidiary transferees, if any, are advised to access the Fund's allocation tracking system to record and finalize each QEI that they issue to an investor in exchange for cash.

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### **(8) How can my organization apply for NMTC Allocations?**

An organization interested in applying for NMTC Allocations in the 2003 round must submit its Allocation Application **no later than 5:00 pm Eastern Time on September 30, 2003**. The Fund expects all Applicants to submit online Allocation Applications. Applicants may access the online Allocation Application by logging in through myCDFI/CDE on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov). Applicants that have not already done so are encouraged to register a user account through myCDFI/CDE as soon as possible. User accounts created on the Electronic Handbooks system for the 2002 Allocation Application will not be valid for the 2003 Allocation Application. Please contact the Fund's IT Help Desk at (202) 622-2455 or [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov) if you are having problems registering under myCDFI/CDE. (For more information on submitting an online Allocation Application, see response to Q&A #9 below.)

Applicants that are unable to submit an online Allocation Application may submit a paper application, provided that they **submit a Paper Application Submission Form to the Fund no later 5:00 pm Eastern Time on September 19, 2003**. This form is available on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov). It should be submitted to the attention of the Fund's Chief Financial Officer and should include an explanation of why the Applicant is not capable of submitting an online Allocation Application. The Fund will provide information on the procedures for submission of a paper application at that time. (For more information on submitting a paper application, see response to Q&A #10 below.)

### **(9) What is the process for submitting an online Allocation Application?**

To apply online, Applicants must have: (1) Internet Explorer 5.5 or higher or Netscape Navigator 6.0 or higher, and (2) Windows 98 or higher (or other system compatible with the above Explorer and Netscape software). Ideally, Applicants should have a 56 Kbps Internet connection, however, Applicants can use the online Allocation Application with a slower Internet connection.

Before entering narrative information into the website, the Fund advises Applicants to type the narrative in another program, such as Microsoft Word. Then they can copy and paste answers into the appropriate sections of the handbook. This will also cut down on the time spent filling out the online application. The textboxes generally allow an unlimited amount of characters. However, the Fund encourages Applicants to be brief and concise in their responses. The majority of responses need not be more than a paragraph or two, and no response should be more than two or three pages at the most. In certain cases where the application indicates that a brief answer is expected, the textboxes will allow only 2500 characters including spaces (approximately ½ page in MS Word). Applicants will be prevented from exceeding the space provided. All narrative answers must be in text form only and not include any

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special formatting (e.g., bolding or underlining), charts, tables or other graphics not required in the application.

Start filling in the online application early. Once you have submitted your online Allocation Application, the system will provide instructions for submitting the signature page and any relevant attachments. The authorized representative must sign the unmodified, signature page and send it to BPD so that it is received no later than 5:00 pm Eastern Time on October 7, 2003. Due to the location of BPD, some delivery companies do not provide overnight delivery. It is the Applicant's responsibility to check this information and track the package for date and time of delivery. If a signature page with the correct signature is not received by the applicable deadline, the entire Allocation Application will be rejected without further review. If the attachments are not received by the applicable deadline, then they will not be given consideration as part of the review process. **Only those attachments requested by the Fund will be considered as part of the review process. Furthermore, the Fund will not accept any revisions or amendments to an application or the attachments once they have been submitted for review.**

**(10) *What is the process for submitting a paper application?***

Prior to submitting a paper application, Applicants must first submit a "NMTC Paper Application Submission Form," available on the Fund's website, no later than 5:00 pm Eastern Time on **September 19, 2003.** Organizations that do not submit a form by that date will not be allowed to submit a paper application. The paper format will allow for the same amount of space for answering questions as the electronic application form. The Fund encourages Applicants to be brief and concise in their responses. The majority of responses need not be more than a paragraph or two, and no response should be more than two or three pages at the most. In certain cases where the application indicates that a brief answer is expected, the applicant will only be permitted to enter 2500 characters including spaces (approximately ½ page in MS Word). All narrative answers must be in text form only and not include any special formatting (e.g., bolding or underlining), charts, tables or other graphics not required in the application.

**(11) *What are the advantages to submitting an online application?***

Applicants that apply through an online application will be able to save any data or information into the system, exit and later reenter the application throughout the application period. For the most part, the system will prevent an Applicant from entering answers incorrectly, answering questions that do not apply or forgetting to answer questions that are relevant. Applications submitted online provide processing, data collection and administrative efficiencies to the Fund that are not provided in a paper application process. Online submissions decrease the cost of mailing the application and provide

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immediate confirmation of receipt by the Fund. Perhaps most importantly, Applicants choosing to submit a paper application may experience delays in notification of allocation decisions and delays in the draw down of tax credits – since these activities will be expedited by the Fund’s ability to retrieve data stored at the time of the submission of an online application. Since the Fund will require organizations that are awarded NMTC Allocations to submit compliance and monitoring reports and data via a web-based handbook similar to the online application, an Applicant that submits a paper application is advised to address, in its narrative response to Question #47 under Management Capacity, Program Compliance Experience, how it will, if provided an NMTC Allocation, have the resources to comply with the Fund’s future web-based reporting requirements.

**(12) *Will the information that I provide in my Allocation Application be accessible by the general public?***

The CDFI Fund will not publicly post any proprietary information submitted by an individual Applicant. However, any information submitted by an Applicant in its Allocation Application is subject to the Freedom of Information Act (5 U.S.C. 552) and/or other Department of Treasury regulations or other laws. In general, FOIA makes a federal agency record available to the public, unless the information requested is exempt from disclosure. Trade secrets and commercial or financial information submitted by an Applicant, that are privileged or confidential, are generally exempt from disclosure pursuant to the FOIA. Applicants should consult their own attorneys for further guidance on this matter.

**(13) *Can more than one Affiliated entity submit an application?***

**No. Entities that are Affiliates may only collectively submit one Allocation Application per year under the NMTC Program.** An Affiliate is an entity that Controls, is Controlled by or is under common control with another entity (as determined by the Fund). Both the terms “Affiliate” and “Control” are defined in the Notice of Allocation Availability (NOAA) and Glossary of Terms that accompanies the Allocation Application. As an example, entity ABC is Controlled by entity XYZ. XYZ also Controls entity DEF, which in turn Controls entity HIJ. ABC, XYZ, DEF and HIJ are all considered Affiliates. Only one of these entities can submit an application in any given round. An applicant may, however, under certain circumstances submit a consolidated application on behalf of one or more Subsidiary entities (see Q&A #14).

**(14) *Can my organization apply for a NMTC Allocation on behalf of Subsidiary entities, as it did with its CDE Certification Application?***

Yes. An organization may apply for a NMTC Allocation with the intention of transferring all or a portion of its NMTC Allocation to one or more for-profit

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Subsidiary entities. In order to transfer any portion of its NMTC Allocation to a Subsidiary, an Applicant must: (a) exercise “Control” over the Subsidiary entity, as such term is defined in the NOAA and Glossary of Terms that accompanies the Allocation Application; and (b) indicate in its Allocation Application an intent to make a transfer of allocations. Applicants applying for allocations on behalf of one or more Subsidiaries are instructed in the Allocation Application to respond to questions collectively on behalf of all entities (the Applicant and its Subsidiary Applicants), to the extent that responses do not vary across different entities.

**(15) *If my organization intends to transfer all or part of an NMTC Allocation to one or more Subsidiaries, do the Subsidiaries need to be established and certified as CDEs prior to submission of the Allocation Application?***

No. An Applicant will not be required to form and secure CDE certification for Subsidiary entities prior to the submission of its Allocation Application. However, once selected for an allocation, the allocatee will not be permitted to transfer any of its allocation to Subsidiaries unless those Subsidiaries have been: (a) certified as CDEs by the Fund; and (b) identified by name in the allocatee’s Allocation Agreement. If an allocatee requests, the Fund may, in its sole discretion, amend the allocatee’s Allocation Agreement to add Subsidiary entities that were not yet formed and/or certified as CDEs at the time of the allocatee’s receipt of a NMTC Allocation.

**(16) *Can non-profits apply for a NMTC Allocation?***

Because NMTCs can only be offered to taxable investors that purchase stock or capital interest in a CDE, only for-profit CDEs may offer NMTCs to their investors. However, a non-profit entity may apply for a NMTC Allocation with the intention of transferring the allocation to one or more for-profit Subsidiaries. The for-profit Subsidiaries do not have to be formed at the time the non-profit CDE applies for NMTC Allocations. However, the Subsidiary transferee must: (i) submit a CDE Certification Application to the Fund within 30 days after the non-profit Applicant receives a Notice of Allocation from the Fund; and (ii) must be certified as a CDE prior to entering into an Allocation Agreement with the Fund. The NMTC Allocation transfer must be pre-approved by the Fund, in its sole discretion, and will be a condition of the Allocation Agreement.

**(17) *Are there any limitations with respect to using NMTCs, or the proceeds of QEIs, in conjunction with other CDFI Fund program awards?***

An investor that is an insured depository institution or an affiliate of an insured depository institution may not claim both NMTCs and a BEA Program award for the same investment into a CDE.

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Example 1: If a bank makes a \$1 million equity investment into a CDFI-CDE that has also received NMTC Allocations from the Fund, the bank may claim the NMTCs **or** it may claim a BEA Program award – it may not claim both.

Example 2: If a bank makes a \$1 million equity investment into a CDFI-CDE that has also received NMTC Allocations from the Fund, and also makes a \$1 million loan to this CDFI-CDE, the bank may claim NMTCs on its \$1 million equity investment and claim a BEA Program award for its \$1 million loan.

There are currently no other specific prohibitions for using NMTCs or the proceeds of QEIs in conjunction with other Fund programs. Any future limitations will be described in the applicable Notices of Funds Availability (NOFAs) and/or NOAAs that accompany those programs.

- (18) *When requesting NMTC Allocations from the Fund, should the Applicant ask for the total amount of equity it intends to raise through NMTCs, or should it ask for the total value of the tax credits that will be available to its investors?***

The Applicant's Allocation Application request must be for the amount of QEIs the Applicant intends to raise by offering NMTCs as an incentive. For example, if a CDE wishes to raise \$10 million in equity, it would request a \$10 million allocation from the Fund – even though the actual amount of NMTCs an investor may claim over 7 years is \$3.9 million (39% of the investment amount). An allocatee cannot offer NMTCs on equity raised in excess of its NMTC Allocation. In the 2003 allocation round, the Fund is authorized to allocate to CDEs the authority to issue up to \$3.5 billion in QEIs for which NMTCs may be claimed.

- (19) *How do I complete the Allocation Application if my organization is a start-up entity?***

A start-up organization that does not itself have a track record of raising capital, offering products and services, creating community impact, etc., may reference the track record of its Controlling Entity as appropriate throughout the Allocation Application. The Fund recognizes that, in circumstances where the Controlling Entity is also a start-up, it will be difficult if not impossible for an Applicant to respond to certain questions (and complete certain tables) related to prior track record. In such circumstances, the Applicant should be sure to emphasize, under the Management Capacity section, the relevant experiences, knowledge base, and skills of its management team to carry out its prospective activities. (For more information about who is considered a Controlling Entity, see response to Q&A #22 below and tips in the Allocation Application.)

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- (20) *Is there a limit to the total NMTC Allocation amount that an Applicant may request in the 2003 allocation round?***

No. For the 2003 round, the Fund has not set a cap on the size of NMTC Allocation requests. However, the Fund reserves the right to provide allocations for an amount that is less than the amount requested by the Applicant.

- (21) *When will the Fund make allocation decisions? Can my organization start to offer NMTCs to investors as soon as it receives an allocation?***

The Fund expects to announce its NMTC Allocation decisions in March of 2004, and execute Allocation Agreements with allocatees shortly thereafter. As soon as an allocatee enters into an Allocation Agreement with the Fund, it may offer NMTCs to its investors, including those that have invested under the look-back period (see Q&A #36 for more information on the look-back period). Generally, investors may claim NMTCs beginning in the taxable year in which they make a QEI in the allocatee.

- (22) *Who can be considered a Controlling Entity, for purposes of demonstrating an organizational track record in the Business Strategy and Capitalization Strategy sections and in Exhibits A and C. Can an individual be considered a Controlling Entity? Can an Applicant have more than one Controlling Entity? Can an Applicant identify the parent of its parent company as a controlling entity?***

An Applicant, in Question #3 of its Allocation Application, may designate any organization as a Controlling Entity, provided that the organization meets the definition of "Controlling Entity" pursuant to the NOAA and the Glossary of Terms. Individuals, such as principals or the board of directors, cannot be treated as Controlling Entities for the purposes of demonstrating an organizational track record in the Business Strategy and Capitalization Strategy sections of the Allocation Application. However, an Applicant may describe such individuals' experience and track record in the Management Capacity section.

With regard to multiple controlling entities, the 2003 NMTC Allocation Application is not equipped to accept more than one Controlling Entity. Therefore, entities applying for a 2003 NMTC Allocation will need to select one Controlling Entity in Question #3 to use throughout the Business Strategy section to assist in demonstrating track record and in completing related exhibits. The Fund recommends that an Applicant identify the entity that has the power to control the management and investment decisions of the Applicant. An Applicant may identify the parent of its parent as its Controlling Entity to demonstrate an organizational track record, provided that the

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relationship between the “grandparent” organization and the Applicant conforms to the Fund’s definition of “Controlling Entity.”

If the Applicant does not properly fill out the Controlling Entity question or continually references more than one Controlling Entity in the narrative for the Business Strategy (including track record of serving Disadvantaged Businesses or Communities), Capitalization Strategy, Community Impact or the Exhibits, the Applicant will likely not earn as many points during the review of its application.

**(23) Is there an example of what format the Fund would like to see in Questions #11a and 11b of the Allocation Application?**

The following are examples of the format, not the substance, the Fund would expect to see in Question #11. For 11a, briefly describe the Applicant’s business strategy (including geographic markets; products and services):

*The Applicant has a regional service area in Bolivar and Sunflower Counties, Mississippi, and Desha County, Arkansas. An estimated 80% of its activities will be targeted to rural areas, and 20% to urban areas. The Applicant will use its NMTC allocation to provide loans and equity capital investments in low-income communities located in the Delta region. The Applicant will make loans and investments in commercial and residential real estate projects to finance land development, vertical development of office, industrial, tourist, commercial and residential development projects.*

For 11b, describe how the Applicant will utilize its NMTC Allocation to enhance or improve its current activities:

*The NMTC allocation will enable the Applicant to offer more favorable products to borrowers. With the NMTC Allocation, the applicant intends to offer loans with interest rates that are generally two percentage points lower than its current offerings and four percentage points below market rates. The Applicant will also use more flexible underwriting standards, such as loan to value ratios as high as 95%.*

**(24) In Question #13 of the Allocation Application, can I designate a service area that is different than the service area that I was certified for in my CDE Certification Application? Similarly, can a CDE modify its service area after closing an Allocation Agreement with the Fund?**

The service area designated in Question #13 must be consistent with (i.e., identical to or a subset of) the service area that the Applicant was certified for in its CDE Certification approval letter, or in the case of an Applicant that has not yet been certified, the service area requested in its CDE Certification Application. The CDE certification process does not require a CDFI or SSBIC to designate a service area, but the Fund expects a CDE that is a CDFI to

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designate areas consistent with its target market designated under the CDFI Program.

In the event that a non-CDFI/SSBIC Applicant would like to amend its CDE certification service area prior to submitting its Allocation Application, it may do so by sending an email to the CDFI Fund's Helpdesk at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov), with the subject line, "NMTC Program: Revision of Service Area." In this email, a CDE should include, for itself and any Subsidiary CDEs for which it is seeking to amend a service area: (1) the CDE certification control number; (2) the initial service area designated by the CDE, as well as the revised service area that the organization intends to serve; and (3) a revised Accountability Chart, indicating the most current list of board members and how they are representative of Low-Income Communities in the revised service area. If a CDFI would like to amend its target market, it should contact the program operations staff at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov) or by calling (202) 622-8662 for additional instructions. **Organizations that would like an amended service area or target market to be considered in the context of their 2003 NMTC Allocation Application must submit this information to the Fund no later than 5:00 pm Eastern Time on September 30, 2003.**

Subsequent to closing an Allocation Agreement with the Fund, an allocatee may request to modify its Allocation Agreement and CDE certification documents as necessary to broaden its service area to include a market that was not identified at the time of the allocatee's receipt of an NMTC Allocation and/or initial certification as a CDE. The Fund will review such requests on a case-by-case basis to ensure, among other things, that the CDE is appropriately accountable to Low-Income Communities in its amended service area.

- (25) *There are some activities that are not clearly prohibited by the IRS Temporary and Proposed Income Tax Regulations, but that are also not clearly allowed. If my business strategy falls within one of these more undefined areas, how will my application be scored by the Fund?***

The Fund will evaluate each Allocation Application on a case-by-case basis, and consult with the IRS as necessary, to ensure that the activities proposed are within the guidelines set forth in the IRS Temporary and Proposed Income Tax Regulations. If some or all of the Applicant's proposed activities are not allowable pursuant to the IRS regulations, the Fund may reduce the amount of an allocation as appropriate, or deny the applicant an allocation entirely.

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**(26) *If an Applicant intends to use part or all of the QEI proceeds to capitalize an Affiliate CDE (e.g., capitalize a Subsidiary CDE bank), how should it complete the Allocation Application?***

Such an Applicant must be sure to:

- (a) Under Question #17, check “c” and complete the boxes underneath to indicate the type and percentage of QLICI activities that will be carried out by the Affiliate CDE.
- (b) Identify in Question #18 that the Applicant’s business strategy consists solely or partially of capitalizing the Affiliate CDE. An Applicant that intends to capitalize more than one Affiliate CDE (e.g., a CDE bank holding company that intends to capitalize multiple Subsidiary CDE banks) should identify each such Affiliate CDE.
- (c) Answer all questions (and complete all tables and exhibits) as if the Affiliate CDE were itself applying for the allocation of tax credits. An Applicant that intends to capitalize more than one Affiliate CDE or conduct only a portion of its activities with an Affiliate CDE should consolidate its and its Affiliate CDE’s QLICI activities when completing tables and exhibits, but should use the narrative portions of the application to distinguish between the respective roles and activities of each Affiliate organization.
- (d) An Applicant that intends to use more than 15 percent of its QEI proceeds to capitalize a Subsidiary CDE generally may not claim the 5 priority points for investing in an Unrelated entity in Question #29 – even if the Subsidiary CDE intends to use substantially all of the proceeds to invest in Unrelated entities.

**(27) *What is a non-real estate versus real estate QALICB?***

For the purposes of completing the Business Strategy section and all relevant exhibits, real estate Qualified Active Low-Income Community Businesses (QALICBs) refers to the development of a specific real estate project or projects. Investments in real estate businesses (development, management or other) in support of their business operations, as opposed to a specific project or projects, are considered non-real estate QALICB transactions. Transactions with QALICBs that are involved in all other types of business activities should be classified as non-real estate QALICB transactions regardless of: 1) how the business intends to use the proceeds of the transaction; or 2) whether the business intends to use any real estate owned as collateral for the loan. For example, if an Applicant provided a loan to a childcare provider for the purpose of purchasing the property where the childcare center would be housed, the Applicant would categorize this loan as a non-real estate QALICB transaction.

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However, if the Applicant provided a loan to a development company for the purpose of building a childcare center, and the organization's primary business is the development of community facilities, this loan would be considered a real estate QALICB transaction.

**(28) *In Question #29 of the Allocation Application, how can an applicant earn the 5 priority points for investing in unrelated entities?***

An applicant may earn the 5 unrelated entity priority points by first identifying the persons who will hold the majority equity interest in the business after the CDE makes the QLICI. Second, the applicant must determine whether such persons are related to the CDE (within the meaning of IRC § 267(b) and § 707(b)(1)). An applicant may only earn the 5 priority points if persons unrelated to the CDE will hold a majority equity interest in the business after the CDE makes a QLICI in the business.

In addition, in order to comply with the terms of the Allocation Agreement, persons unrelated to the CDE are expected to continue to own a majority equity interest in the business subsequent to the CDE making the QLICI. The CDFI Fund will review any changes in such circumstances to the CDE on a case-by-case basis. Applicants should refer to IRC §§ 267(b) and 707(b)(1) and consult their own tax advisors for more information about the definition of a related entity.

**(29) *What documents are considered acceptable to demonstrate investor commitments for Table C1?***

An Applicant who enters information into Table C1 is required to submit attachments validating the following information for each investor: name of investor, dollar amount of equity sought or obtained, status of the investment request (e.g., funds received, commitment of funds, letter of interest/intent). If the documents do not contain such information to validate the information entered in Table C1, or are missing altogether, the Applicant will not receive credit for such transactions. Acceptable documents for a commitment include a signed and dated investment agreement or a letter indicating that the investor has made such a commitment. Likewise, a letter indicating that the investor has a demonstrated level of interest (as opposed to a stated commitment) in making an investment shall suffice as a letter of intent/interest. To demonstrate that funds have been received, an Applicant should include both a signed agreement indicating the terms of the equity investment and proof that investment funds have been received by the Applicant (e.g., a copy of a check).

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**(30) *What terms and conditions will be placed upon Applicants that receive NMTC Allocations from the Fund?***

Each Applicant that is selected to receive a NMTC Allocation must enter into an Allocation Agreement with the Fund before it can designate QEIs and offer tax credits to its investors. The terms and conditions set forth in an Allocation Agreement may include, but not be limited to, the following:

- (a) The amount of the NMTC Allocation;
- (b) The approved uses of the NMTC Allocation (e.g., loans or equity investments to QALICBs, loans to or equity investments in other CDEs, purchase of qualifying loans from other CDEs, etc.);
- (c) The approved service area(s) in which the QEI proceeds may be used;
- (d) The CDE's schedule for obtaining QEIs from investors;
- (e) Reporting requirements for all CDEs receiving NMTC Allocations; and
- (f) Other information identified in the "Tips" in the Allocation Application.

If a CDE has represented in its Allocation Application that it intends to invest substantially all of the proceeds from its investors in QALICBs in which persons unrelated to the CDE hold a majority equity interest, the Allocation Agreement will contain a covenant attesting to such.

### NEW QUESTIONS AS OF SEPTEMBER 8, 2003

**(31) *My organization applied for an allocation of tax credits in 2002. How do I access an electronic copy of that application and my debriefing document?***

To access your 2002 application or your debriefing document (in the case of an unsuccessful 2002 applicant), follow the steps below. If you have already registered with My CDFI/CDE, log onto the system and skip to step (7).

- (1) Go to the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov)
- (2) In the middle of the page (right above the myCDFI/CDE logon box), click *Register New User*
- (3) The system will prompt you for your email address and contact information. Provide this as prompted.

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(4) You will reach a screen with 4 options. You will want to click on *Register a new myCDFI organization*.

(5) The system will prompt you for your organizational information. Provide this as prompted. Just to note: a D&B number is not required for completion. If you do not have a website, just type NA.

(6) Once you have completed this information, you will be directed to the myCDFI/CDE homepage.

(7) Under *Quick Links* in the lower right hand corner of the screen, you should see a link for the NMTC handbooks. If you do not see the link, that means that the system did not recognize your organization's EIN as having a NMTC handbooks account. If this is the case, please contact our IT Help Desk at [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov) or 202-622-2455.

(8) Click on the link to enter the handbook system. There will be an option to View both the debriefing/allocation agreement and the 2002 application.

**(32) *My organization has not yet received commitments from its investors. Will this prevent it from scoring well under the Capitalization Strategy section of the application?***

Receipt of investor commitments is not a pre-requisite for receiving an NMTC Allocation. Many allocatees from the 2002 application round, for example, had not yet secured investor commitments at the time of initial application. As stated in the 2003 NOAA (and re-stated in various tips within the body of the Allocation Application):

“An applicant will generally score well under [the Capitalization Strategy] section to the extent that: (a) it has secured investor commitments or has a reasonable strategy for obtaining such commitments (emphasis added); (b) its request for allocations is commensurate with both the level of Qualified Equity Investments it is likely to raise and its expected investment strategy to deploy funds raised with NMTCs; (c) it is likely to leverage other sources of funding in addition to NMTC investor dollars; (d) it intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC section 45D(b)(1)(B).”

**(33) *What data should I be providing in the tables in Exhibit A?***

Tables 1-4 in Exhibit A should be used to demonstrate the applicant's (or its Controlling Entity's) overall track record of: 1) providing loans to or investments in non-real estate businesses; 2) providing loans to or investments

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in businesses whose principal activities involve the development or rehabilitation of real estate; 3) providing loans to or investments in CDEs; and 4) purchasing loans from other CDEs. An applicant need only fill out those tables that are pertinent to the types of activities that it intends to pursue with a NMTC Allocation (i.e., the types of activities checked in Q.17 of the Allocation Application). Also, when completing a given table, Applicants should report on the totality of historical activities requested in the table – not just the portion of those activities that meet the definition of a QLICI.

Example: If an Applicant indicates in Q.17 of the Allocation Application that it plans to provide loans to non-real estate businesses, and it (or its Controlling Entity) has a track record of making these types of loans, then it should complete Table A-1. In columns 1-6, it should report on all of its business lending activities, not just the portion of business lending activities that were directed to QALICBs. In column 7, it should report on the portion of its overall activities that were directed to Disadvantaged Businesses and Communities. And in column 8, it should report on the total amount of losses and/or write-offs that have been booked between 1998 and 2002 – not just the portion of losses or write-offs attributable to Disadvantaged Businesses or Communities.

- (34) *Tables 1-4 in Exhibit E include a column heading “Years with (or years providing services to) the Applicant.” In completing this information, may a start-up entity refer to the years of service that an individual provided to its Controlling Entity?***

This is permissible, provided that the Applicant had consistently referred to the track record of its Controlling Entity throughout its Allocation Application. Also, the Applicant should be sure to indicate, in the relevant narrative portions of its application, that the information provided in tables E1-E4 refers to the individual’s record of service to the Controlling Entity.

- (35) *In Table F1, there is a column heading “# of projects.” How should this column be completed relative to each row in the table?***

Row 1 = the total projected number of businesses financed  
Row 2 = the sum of the numbers provided in rows 2a-2g (calculated automatically)  
Row 2a = the total projected number of office facilities developed or rehabbed  
Row 2b = the total projected number of industrial facilities developed or rehabbed  
Row 2c = the total projected number of retail facilities developed or rehabbed  
Row 2d = the total projected number of for-sale housing units developed or rehabbed  
Row 2e = the total projected number of mixed-use projects developed or rehabbed

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Row 2f = the total projected number of community facilities developed or rehabbed

Row 2g = the total projected number of infrastructure projects financed

Row 3 = the total projected number of CDEs financed (via QLICs)

Row 4 = the total projected number of loans purchased from CDEs

Row 5 = the total number of training modules or training products offered

**(36) *May I offer NMTCs to investors that made an investment in my organization before it received an allocation of NMTCs?***

Yes. The IRS has provided notification (IRS Notice 2003-56) that it intends to amend its Temporary and Proposed Income Tax Regulations to permit CDEs that receive an allocation of NMTCs in the 2003 allocation round to, in certain circumstances, offer tax credits to investors that made Qualified Equity Investments on or after July 18, 2003 but prior to the receipt of a NMTC Allocation. For purposes of this look-back period, the investor's seven-year credit period begins on the date in which the CDE enters into an Allocation Agreement with the Fund. The CDE is required to invest substantially all of the investor's QEI proceeds in QLICs within one year of the date in which the CDE enters into an Allocation Agreement with the Fund.

\* \* \* \*

***More detailed application content requirements are found in the 2003 NMTC Allocation Application and 2003 NOAA. In the event of any inconsistency between the contents of this Q & A document, the NOAA, the General Guidance, the CDE Certification Guidance, the 2003 Allocation Application, the statute that created the NMTC Program (Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000) (the "Act"), or the IRS Temporary and Proposed Income Tax Regulations (66 Federal Register 66307, December 26, 2001), the provisions of the Act and the Temporary and Proposed Income Tax Regulations shall govern.***

***All terms and phrases that are Capitalized in this document are defined in the Glossary of Terms contained in the Allocation Application.***

***If you have any NMTC Program allocation or application questions, please contact the Fund at (202) 622-7373. If you have any tax-related questions, including what constitutes eligible NMTC activities, please consult your attorney or contact the IRS at (202) 622-3040.***